



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Champion Service Corporation

File: B-284116

Date: February 22, 2000

Jinmahn Kim for the protester.

Theodore M. Bailey, Esq., for SelRico Services, Inc., an intervenor.

Capt. Bryan B. Davis and Jerry W. Aldridge, Department of the Air Force, for the agency.

Jacqueline Maeder, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency's evaluation of protester's past performance is unobjectionable where the record establishes that the evaluation was reasonable and consistent with the procedures stated in the solicitation; protester's mere disagreement with the agency's conclusions does not render the evaluation unreasonable.

2. Protest that agency award decision resulted directly from improper price comparison is denied where, in making her award determination, the contracting officer considered each offeror's price and performance risk, as required by the solicitation, and reasonably determined that the lower performance risk offered by the higher-price proposal warranted the payment of the associated cost premium.

DECISION

Champion Service Corporation protests the award of a contract to SelRico Services, Inc. under request for proposals (RFP) No. F07603-99-R6009, an 8(a) set-aside issued by the Department of the Air Force for food attendant services at Dover Air Force Base, Delaware. Champion contends that its past performance was improperly evaluated, that performance risk was improperly considered as an unstated, separate evaluation factor, and that the agency award decision was the direct result of an improper price comparison.

We deny the protest.

The solicitation, posted to the electronic posting system on June 16, 1999, contemplated the award of a fixed-price contract for a base year with four 1-year option periods. RFP amend. 1, Schedule of Supplies/Services, at 3-7. The RFP, as amended, provided that the agency would perform a price/performance tradeoff to make a best value award decision. Id. at 17. The RFP provided that if the proposal from the low-priced, technically acceptable, responsible offeror received an “exceptional” performance risk rating, it would constitute the “best value,” but that award could be made to other than the low, technically acceptable offeror if that offeror’s performance risk rating was “very good” or lower. Id.

The RFP stated that for purposes of making a performance risk rating, the contracting officer would obtain performance information by using questionnaires sent to references provided by the offerors, and data independently obtained from other government and commercial sources. Id. The RFP asked offerors to provide a list of at least one but not more than five of the most recent and relevant past and present contracts performed for the government or commercial customers within the last 3 years. Id. at 14. Each offeror was to provide for each contract, among other things, the contracting agency or company, the contract number and dollar value, the period of performance, the name, address and fax number of the contracting officer and the product or service supplied. Id.

The Air Force received nine offers by the July 20, 1999 closing date. Proposals were ranked by price and, as called for by the solicitation, the technical proposals of the five low-priced offerors, including Champion’s and SelRico’s, were evaluated. Agency Report, Tab 9, Integrated Assessment Best Value Decision, at 2. After discussions, best and final offers (BAFO) were received; SelRico offered a total evaluated price of \$4,892,540 for all base and option requirements, and Champion offered a price of \$4,272,580. Id.

The contracting officer sent survey questionnaires containing questions dealing with performance schedules, management, personnel, quality control and contractor cooperation to the sources provided by the offerors. Under the denominated questions, survey respondents were asked to circle numerical scores ranging from 1 to 6, representing ratings of “unsatisfactory,” “marginal,” “none,” “satisfactory,” “very good,” and “exceptional,” respectively.¹ Agency Report, Tab 5, Past Performance Information for Champion Service Corporation, at 8-9. Each of these ratings was defined at the top of the questionnaire.² Based on the survey responses,

¹ The survey respondents also had the option of circling “N/A” for “not applicable” in response to each question.

² For example, “very good” was defined as performance which met all contract requirements and exceeded some to the government’s benefit, with only a few minor problems which the contractor resolved in a timely, effective manner.

the proposals were assigned an overall rating of exceptional, very good, satisfactory, marginal, or unsatisfactory.

Champion provided five references; surveys were sent to four and responses were received from all four.³ Agency Report, Tab 9, Integrated Assessment Best Value Decision, at 2. Of the four responses, two involved strictly custodial service contracts which were not considered relevant. The other two surveys for food service were evaluated, resulting in a rating of “very good.” Agency Report, Tab 5, Past Performance Information for Champion Service Corporation, at 9, 13. SelRico also provided five references; surveys were sent to all five and responses were received from three. The three surveys were evaluated, resulting in a rating of “exceptional.” Agency Report, Tab 9, Integrated Assessment Best Value Decision, at 3.

Because Champion offered the low price, but did not receive an “exceptional” performance risk rating, as provided for by the RFP, the contracting officer performed an integrated assessment best value determination. The contracting officer noted that SelRico provided an “exceptional” performance risk rating based on its highly rated, “vast past performance experience in major food service contracts.” *Id.* SelRico had more than 10 years of experience in food services, with current contracts at three air force bases and had received “laudatory comments” from its references on the past performance questionnaires, as well as a 1998 Air Force award for food service excellence. *Id.* In contrast, the contracting officer determined that Champion presented a less favorable performance risk because of its less highly rated experience, which did not pertain to large food service contracts. Specifically, the contracting officer noted that Champion had performed only two food service contracts, both of which were for a total annual price of less than \$100,000 and that neither contract required full 7-day per week service. *Id.*; Agency Report, Tab 2, Contracting Officer’s Statement, at 4. Because of the “criticality of food services to the operation of Dover” and “SelRico’s exceptional past performance,” the contracting officer determined that payment of the additional \$134,292 per year associated with the lower performance risk represented the best value for the government and awarded the contract to SelRico. Agency Report, Tab 9, Integrated Assessment Best Value Decision, at 4. After the agency denied Champion’s agency-level protest of the award decision, the protester filed this protest with our Office.

Champion asserts that its past and present food service performance “was rated excellent by all . . . contracting offices” and, therefore, its past performance was incorrectly evaluated as “very good” rather than “exceptional.” Protest to Agency,

³ One reference was not contacted because it was for work performed outside the specified time frame, involving a contract at Grissom Air Force Base, which was closed in 1994.

Oct. 4, 1999, at 1. Champion also contends that performance risk was improperly evaluated as a separate and unstated evaluation factor. Protester's Comments at 1. The protester further asserts that the award decision was actually based on the agency's experience with pricing from the previous contractor rather than on Champion's pricing. Protest at 1.

The evaluation of an offeror's past performance is a matter within the discretion of the contracting agency and we will not substitute our judgment for the agency's, so long as the rating is reasonably based and documented. HLC Indus., Inc., B-274374, Dec. 6, 1996, 96-2 CPD ¶ 214 at 3. Mere disagreement with the agency's evaluation does not itself render the evaluation unreasonable. Id.

Here, there is no basis to conclude that the agency improperly evaluated Champion's proposal with respect to past performance. The record shows that the rating was based on the two performance surveys concerning Champion's food service experience. Specifically, the agency considered the scores from these past performance questionnaires as the basis to assess the offeror's past performance and assigned an appropriate performance risk rating. Champion's survey responses consisted of 10 "satisfactory" ratings, 20 "very good" ratings, and 1 "exceptional" rating, which the agency assessed as warranting an overall "very good" rating. Agency Report, Tab 5, Past Performance Information for Champion Service Corporation, at 23. Based on this assessment, the agency reasonably assigned Champion a "very good" performance risk rating. The protester's argument that its references rated its performance as "excellent" is not supported by the record, nor is there anything in the record to support the contention that Champion's performance risk rating should have been "exceptional." Further, because the solicitation sought past performance assessments for relevant contracts, the agency reasonably observed that Champion's performance under two contracts involving significantly less value and responsibilities than the instant procurement had limited relevance. While Champion disagrees with the agency's performance risk rating, Champion's mere disagreement with this evaluation, as noted above, does not make it unreasonable and we find no basis to question it.⁴

The protester's argument that performance risk was improperly evaluated as an unstated evaluation criterion is without merit. First, we note that, even when risk is not specifically listed in the solicitation as an evaluation criterion, an agency is not precluded from considering any proposal risk arising from an offeror's approach or demonstrated lack of understanding that is intrinsic to the stated evaluation factors. Davies Rail & Mechanical Works Inc., B-278260.2, Feb. 25, 1998, 98-1 CPD ¶ 134 at 10. Here, as noted above, the RFP stated that the agency would evaluate the past

⁴ Champion does not question SelRico's past performance evaluation, which we note was based on substantially better survey responses for more comparable contract performance.

performance questionnaires submitted by references listed by each offeror to assess each “offeror’s ability to perform the effort described in this RFP, based on the offeror’s demonstrated present and past performance.” RFP amend. 1, at 17. The RFP also explicitly stated that the “assessment process will result in an overall risk rating of exceptional, very good, satisfactory, none marginal, or unsatisfactory. Id. Thus, the RFP put offerors on notice that the agency would assess each offeror’s past and present performance in order to make a performance risk evaluation. In sum, contrary to Champion’s contention, performance risk was not an inappropriately evaluated, unstated evaluation criterion.

Champion also argues that the agency did not award it a contract simply because of a performance risk assessment based on the agency’s view that Champion’s price was low in comparison to the previous contractor’s price. Champion protests that this “plain blind comparison with [the] previous contractor[’s] price” is an “unfair predictor of [Champion’s] potential for success.” Protester’s Comments at 1; Protest at 1.

Champion’s characterization of the award determination is simply not supported by the record. As detailed above, the contracting officer performed an appropriate performance risk assessment and made an award determination on the basis of a tradeoff which considered that SelRico’s relatively lower performance risk warranted payment of the associated cost premium. In addition, the contracting officer compared Champion’s price with the price of each of the offerors, the prior contractor’s price, and the government estimate, and noted that Champion’s price was significantly lower than all of the other prices.⁵ The contracting officer noted that this price comparison “further supports my position” that there is reason to question whether Champion would “provid[e] the quality service we expect.” Agency Report, Tab 9, Integrated Assessment Best Value Decision, at 4. Contrary to Champion’s assertion, the contracting officer did not base her selection decision on this price comparison. Rather, as outlined above, the record establishes that the contracting officer’s decision to select the higher-rated, higher-priced proposal

⁵ The contracting officer had concerns with Champion’s relatively low initial price, and during discussions had suggested that Champion visit and observe Dover’s food service operation. Agency Report, Tab 5(A)(2), Transmittal of Deficiencies and Clarifications, at 1. Champion did so, but elected not to revise its price in its BAFO.

was driven by her conclusion that SelRico's performance risk evaluation was significantly better than Champion's. Under these circumstances we see nothing improper in this determination and there is no basis to object to the award.

The protest is denied.

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